

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**SPINIELLO COMPANIES,**

**Plaintiff,**

V.

**BRICO INDUSTRIES, INC.,**

**Defendant.**

**CIVIL ACTION NO. 04-11933-NMG**

## **JOINT STATEMENT OF THE PARTIES**

Pursuant to Local Rule 16.1 and the Court’s Notice of Scheduling Conference, Plaintiff Spiniello Companies (“Spiniello”) and Defendant Brico Industries, Inc. (“Brico”) hereby submit this joint statement as follows:

## I. DISCOVERY SCHEDULE

1. The parties agree that the scope of discovery in this matter shall conform to the requirements of Fed. R. Civ. P. 26(b).

2. From the date of the initial scheduling conference, the parties shall exchange Initial Disclosures, which shall be served within fourteen (21) days from the date of the initial scheduling conference.

3. That the parties shall be permitted to conduct factual discovery as indicated below, which the Parties agree shall be permitted for a period of two (2) years from the date of the initial scheduling conference, including, but not limited to the following:

a. Plaintiff and Defendant may each propound interrogatories totaling not more than twenty-five questions each;

- b. Plaintiff and Defendant may each also propound two separate requests for the production of documents; and
  - c. Plaintiff and Defendant may notice and conduct depositions of no more than six (6) fact witnesses, not including the parties' respective depositions of Keepers of Records. Each deposition of a fact witness shall not exceed one (1) day without good cause shown;
  - d. Plaintiff's expert disclosures and reports shall be due on or before forty-five (45) days after the close of discovery; and
  - e. Defendant's expert disclosures and reports on or before seventy-five (75) days after the close of discovery; and
  - f. Plaintiff's reply designations, if any, on or before ninety (90) days after the close of discovery; and
  - g. The Parties may notice expert depositions so as to be completed within one hundred and twenty (120) days after the close of discovery.
4. The parties may notice additional discovery pursuant to the applicable Rules until the close of discovery, subject to the limits set forth above, but shall attempt to reduce repetitive discovery requests by informal cooperation.
5. The parties agree to the deadlines and/or discovery limitations set forth herein.

In the event that there is a need for good cause shown to alter or amend these deadlines and/or discovery limitations, the parties shall attempt in good faith to resolve the issue informally before seeking relief from the Court. If the parties are unable to resolve discovery issues informally, they reserve their rights to file the appropriate pleading with the Court seeking relief.

6. The failure of the parties to identify a particular form or method of discovery herein does not preclude the use of such reasonable discovery, for example, Requests for Admissions.

### III. MOTIONS SCHEDULE

1. All dispositive motions must be filed with the Court on or before ninety (90) days after the close of discovery.

### IV. ADDITIONAL MATTERS

Pursuant to the Court's Notice of Scheduling Conference, the parties have discussed the possibility of mediation, as well as trial by magistrate judge. Although the parties have not reached agreement on either subject, they will continue to confer regarding the same.

Respectfully submitted,

**SPINIELLO COMPANIES**

**BRICO INDUSTRIES, INC.**

By its attorneys,

By its attorneys,

/s/ Jeremy Blackowicz

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